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Sent: 7/25/2014 7:27:43 PM
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Subject: Draft Permit Comments - General Discharge Permit for Animal Feeding Operations - MDG01

Gary,

Based on our review of the preliminary draft General Discharge Permit for Animal Feeding Operations (MDG01) received from your office on June 17, 2014, and as per our June 27, 2014 meeting, we offer the following comments. We consider these as informal comments and will provide a formal review in accordance with 40 CFR § 123.44 and our MOA when MDE submits the official draft/proposed permit.

1. Nutrient Management Plan (NMP) - The concentrated animal feeding operation (CAFO) must develop and implement a nutrient management plan (NMP) that incorporates best professional judgment (BPJ), inspections, and requirements set forth in 40 CFR § 122.42, applicable effluent limitations, and standards, including those specified in 40 CFR part 412. The terms of the NMP shall become incorporated as terms and conditions of the permit for the CAFO. The draft permit shall clearly state, in a conspicuous location, that the NMP is incorporated into the permit.

An NMP is a detailed planning document that identifies conservation practices and management activities that, when implemented, help to ensure that both production and natural resource protection goals are achieved. The objective of an NMP is to document those practices and activities that will help achieve the goals of the producer and protect or improve water quality.

Every NPDES permit issued to a CAFO must require that the CAFO implement the terms of a site-specific NMP-approved by the Director pursuant to 40 CFR § 122.42(e)(5). Those site-specific terms of the NMP are defined as “the information, protocols, best management practices (BMPs), and other conditions” identified in a CAFO’s NMP and determined by the permitting authority to be necessary to meet the requirements of 40 CFR § 122.42(e)(1).

In order to meet those requirements, the information, protocols, BMPs, and other conditions in the NMP must, at a minimum, address the following: manure storage, mortality management, clean water diversions, prevention of direct animal contact with water, chemical handling, and conservation practices to control runoff, manure and soil testing protocols, land application protocols and record keeping requirements.

The draft permit as written defines the following permit components: Comprehensive Nutrient Management Plan (CNMP), Nutrient Management Plan (NMP), NMP and Soil Conservation Plan and Water Quality Plan (Conservation Plan). These permit components, collectively, may address the NMP requirements; however, MDE shall justify, clarify, and document where all these prohibitions have been addressed, and that these permit components are available for public review and subject to an approval process.

2. Part III.B.4 Registration Process - The draft permit has components. Add “required plan(s) and information”.
3. Part IV.A.4., Operation of Animal Waste Storage and Distribution Systems - EPA finds that land application of manure, litter, or process wastewater during the winter is not consistent with agronomical

application. Application during winter when soils are often frozen and plants are dormant does not allow plant uptake of nutrients. When manure is placed on frozen and snow covered fields, there is no active plant growth and therefore no uptake of nutrients. Furthermore, frozen and snow covered soil is ineffective in absorbing the nutrients for future growth. It is our understanding that MDE and the Maryland Department of Agriculture (MDA) are planning to prohibit winter spreading. According to Part VII.J., this permit once issued may be modified to incorporate any requirements regarding, but not limited to, winter spreading. Add the following to this prohibition “to the extent allowed by applicable regulations”.

4. Part IV.F. Change in Permitted Operations - The differences and restrictions between land manure and/or chemical fertilizer application and no-land manure and/or chemical fertilizer application are not listed in the draft permit. Define these concepts.
5. Part VII.B. Right of Entry - EPA reserves its right for inspection and entry pursuant to 40 CFR § 122.41(i). Clarify this fact in the draft permit.

Please address our comments and recommendations, and provide us with any changes to the draft permit, Fact Sheet, Notice of Intent, Instructions and/or any applicable document.

If you have any questions concerning this matter, please let me know.

Thanks

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